

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

IN RE LORAZEPAM AND CLORAZEPATE  
ANTITRUST LITIGATION

CASE NUMBER MDL 1290 (TFH)

ARKANSAS CARPENTERS HEALTH AND  
WELFARE FUND, on behalf of itself and all  
others similarly situated,  
1 Riverfront Place, Suite 700  
North Little Rock, Arkansas 72114,

CASE NUMBER 1:01-CV-00159

JUDGE: THOMAS F. HOGAN

Plaintiff,

v.

MYLAN LABORATORIES, INC.  
130 Seventh Street  
1030 Century Building  
Pittsburgh, Pennsylvania 15222,

**FILED**

FEB - 1 2002

NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

MYLAN PHARMACEUTICALS, INC.  
781 Chestnut Ridge Road  
Morgantown, West Virginia 26505,

CAMBREX CORPORATION  
One Meadowlands Plaza  
East Rutherford, New Jersey 07073,

- and -

GYMA LABORATORIES OF AMERICA, INC.  
135 Cantiague Rock Road  
Westbury, New York 11590,

Defendants.

**ORDER AND FINAL JUDGMENT**

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This action (the "Action") having come before this Court for a hearing, as noticed, on November 29, 2001, pursuant to the Order Conditionally Certifying Settlement Class and Preliminarily Approving Proposed Settlement dated February 9, 2001 (the "Preliminary Approval Order") to consider and determine the matters set forth in the Preliminary Approval Order; due notice of the hearing having been published and given; all entities having objections to the proposed settlement (the "Settlement") set forth in the Stipulation of Settlement, dated January 29, 2001 (the "Settlement Agreement"), and described in the Notice of Class Action Settlement (the "Notice"), having been given an opportunity to present such objections to the Court; all entities having been given an opportunity to request exclusion; the Court having considered the matter, including all papers filed in connection therewith, and upon the oral presentations of counsel at the hearing; and good cause appearing therefor,

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:**

1. The Court has jurisdiction over the subject matter of this litigation and over all of the parties.
2. The Court hereby confirms its Preliminary Approval Order and certifies the Settlement Class (as defined below) for settlement purposes only pursuant to Rule 23(a), (b)(3) and (c) of the Federal Rules of Civil Procedure. The Court further finds that the named plaintiff is an adequate class representative for the Settlement Class, and that Robert S. Schachter of Zwerling, Schachter & Zwerling, LLP and Bernard Persky of Goodkind Labaton Rudoff & Sucharow LLP, appointed by this Court's Order of March 9, 2000 as co-lead counsel for the indirect purchaser cases, are appointed for purposes of the Settlement as Indirect Purchaser Lead Counsel. Joe R. Whatley, Jr. of Whatley Drake LLC, for purposes of the Settlement, is designated as Third Party Payor Lead Class Counsel. Indirect Purchaser Lead Counsel, Third

Party Payor Lead Class Counsel and Joseph Arshawsky of Provost Umphrey, L.L.P. Youngdahl-Sadin, P.C. and Michael Hamilton and Reuben A. Guttman of Provost Umphrey Law Firm, LLP, for purposes of the Settlement, are designated as Class Counsel.

3. The Court finds that the named plaintiff and Class Counsel have represented the Settlement Class adequately to satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure.

4. On or before July 9, 2001: (a) notice by publication, substantially in the form of Exhibit I to the Settlement Agreement, was published once in *National Underwriter: Life & Health/Financial Edition* and in *Benefits & Compensation Solutions* and posted on the Internet; and (b) the Notice, Notice of Exclusion Form, and Proof of Claim form, substantially in the form of Exhibits D, E. and G, respectively, to the Settlement Agreement, were mailed by first-class mail to the following that could be reasonably identified:

All Third Party Payors (as described below) that have reimbursed or otherwise paid, in whole or in part, for prescriptions of tablets of generic Lorazepam or generic Clorazepate filled during the period January 1, 1998 through December 31, 1999 for natural persons resident in Alaska, Alabama, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Iowa, Idaho, Illinois, Indiana, Kentucky, Maryland, Missouri, Mississippi, Montana, Nebraska, New Hampshire, Nevada, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Texas, Utah, Virginia, Vermont, Washington and/or Wyoming (the "Settlement Class"). "Third Party Payor" means any non-governmental entity that is (i) a party to a contract, issuer of a policy, or sponsor of a plan, which contract, policy or plan provides prescription drug coverage to natural persons, and is also (ii) at risk, pursuant to such contract, policy or plan, to pay or reimburse all or part of the cost of prescription drugs dispensed to natural persons covered by such contract, policy, or plan.

The foregoing is defined as the "Settlement Class." Such notice is hereby determined to be in full compliance with the requirements of Federal Rule of Civil Procedure 23 and of due process

and is found to be the best notice practicable under the circumstances and to constitute due and sufficient notice to all entities entitled thereto.

5. Due and adequate notice of the proceedings having been given to the Settlement Class and a full opportunity having been offered to the Settlement Class to participate in the hearing, it is hereby determined that all Settlement Class Members (as defined below in ¶ 10) are bound by this Final Order and Judgment.

6. The Settlement Agreement and the Settlement set forth therein are hereby approved and confirmed as fair, adequate and reasonable, and in the best interests of the Settlement Class as a whole, and their terms satisfy Rule 23(e) of the Federal Rules of Civil Procedure and the requirements of due process.

7. The Settlement of this Action was not the product of collusion between the plaintiff, defendants or SST Corporation (the "Parties") or each of their respective counsel, but rather was the result of *bona fide* and arm's-length negotiation conducted in good faith by the Parties and their counsel.

8. The Allocation and Distribution Plan previously filed with the Court is approved, and the Net Settlement Fund (as described in the Settlement Agreement) shall be distributed in the manner provided therein.

9. The Court hereby dismisses the extant complaint in this Action, with prejudice and without costs.

10. The term "Settlement Class Members," as used herein, includes all members of the Settlement Class, except those who have timely requested exclusion, as identified in Exhibit 1 hereto. Without any further action by anyone, the Settlement Class Members, on behalf of themselves, their past and present partners, officers, directors, agents,

attorneys, owners, shareholders, trustees, beneficiaries, parents, subsidiaries, divisions and affiliates, and the heirs, executors, administrators, predecessors, successors and assigns of each of the foregoing (the "Releasers"), for good and sufficient consideration, are hereby deemed to have released and forever discharged each and every direct, individual, class, representative, derivative and other claim, right, action, allegation, demand, defense, counterclaim, issue, setoff, liability, penalty, and cause of action of every nature and description whatsoever, known or unknown, suspected or unsuspected, including (without limitation) all claims for damages, restitution, disgorgement or rescission, or any other legal or equitable relief, liquidated or unliquidated, which the Releasers, or any of them, had, now has or may hereafter have against the Releasees (as defined in the Settlement Agreement), or any of them, arising from or in connection with or in any way related, directly or indirectly, to any of the acts, facts, matters, transactions, events, occurrences, disclosures, statements, representations, omissions, or failures to act set forth, alleged, referred to or otherwise embraced in this Action or the Related Actions (as defined in the Settlement Agreement), including but not limited to claims arising under the statutory or common laws of the United States, any state, territory or other jurisdiction (whether domestic or foreign), or arising from or in any way related to this Action or the Related Actions, excepting only any claim to enforce the terms of the Settlement Agreement. Also expressly excluded from the Released Claims (as defined in the Settlement Agreement) are: (i) any and all claims by any Person (as defined in the Settlement Agreement) based upon payments or reimbursement for prescriptions of tablets of generic Lorazepam or tablets of generic Clorazepate filled during the Class Period for natural persons resident in the United States outside of the Arkansas Carpenters Jurisdictions; (ii) any and all claims of members of the Settlement Class based upon their purchases of tablets of generic Lorazepam or tablets of generic

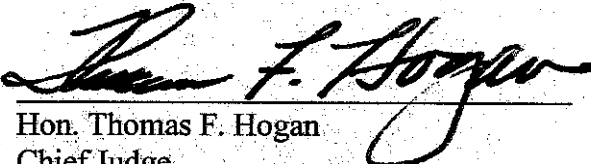
Clorazepate directly from Mylan; and (iii) any and all claims for physical or bodily injury or defective products arising from any purchase of tablets of generic Lorazepam or tablets of generic Clorazepate.

11. Settlement Class Members are hereby severally and permanently barred and enjoined from filing, commencing, instituting, maintaining, prosecuting or participating in a lawsuit or any other proceeding against any of the Releasees including or based on any of the Released Claims, either directly or indirectly, representatively, derivatively or in any other capacity.

12. Neither this Final Order and Judgment, the Settlement Agreement, nor any of its terms or the negotiations or papers related thereto shall constitute any evidence, or an admission by any Releasee, that any acts of wrongdoing have been committed, and they shall not be deemed to create any inference that there is any liability therefor. Neither this Final Order and Judgment, nor the Settlement Agreement nor any of its terms or the negotiations or papers related thereto shall be offered or received in evidence or used for any purpose whatsoever, in this or any other matter or proceeding in any court, administrative agency, arbitration, or other tribunal, other than as may be necessary to consummate or enforce the Settlement Agreement, the terms of the Settlement, or this Final Order and Judgment, or to obtain dismissal of any action asserting the Released Claims.

13. Without in any way affecting the finality of this Final Order and Judgment, this Court hereby retains jurisdiction over the Action for the purposes of implementing and enforcing the terms of the Settlement Agreement, including the administration of the Settlement, as well as all matters relating to the terms of this Final Order and Judgment.

SO ORDERED this 1<sup>st</sup> day of February 2001.

  
Hon. Thomas F. Hogan  
Chief Judge

## **EXHIBIT 1**

### **SCHEDULE OF OPT-OUTS**

1. Aid Association For Lutherans;
2. American Family Life Assurance Company (AFLAC);
3. Amtech Corporation, A Division Of Intermec, Now TransCore;
4. Anderson Tool & Engineering Co. Inc.;
5. Blue Cross And Blue Shield Of Massachusetts, Inc.\*;
6. Blue Cross and Blue Shield of Minnesota;
7. Craven County Health Dept. Home Health-Hospice Agency;
8. Fairmount Homes;
9. Federated Mutual Insurance Company;
10. Harcourt Industries, Inc.;
9. Health Care Service Corp., A Mutual Legal Reserve Co, Its Division Blue Cross Blue Shield of Illinois and Each Of Its Self-Funded Plans That Do Not Claim In the Class\*\*;
10. Health Care Service Corp., A Mutual Legal Reserve Co, Its Division Blue Cross Blue Shield of New Mexico and Each Of Its Self-Funded Plans That Do Not Claim In the Class\*\*;
11. Health Care Service Corp., A Mutual Legal Reserve Co, Its Division Blue Cross Blue Shield of Texas and Each Of Its Self-Funded Plans That Do Not Claim In the Class\*\*;
11. Mulzer Crushed Stone, Inc.;
12. Sumitomo Electric Finance;
13. Summit Construction Co., Inc.; and
14. The Odle McGuire & Shook Corp.



\* Blue Cross And Blue Shield Of Massachusetts, Inc. also purports to opt-out self-funded plans whose prescription benefit programs it administers (see attached Schedule A).

\*\* Health Care Service Corp. also purports to opt-out unidentified self-funded plans whose prescription benefit programs it administers that do not make a claim upon the settlement.

## SCHEDULE A

Acton, Town of

Acushnet Company

Adams Laundry & Dry Cleaning Company

ADCOLE Corporation

Aerovox, Incorporated

Agar Supply Company, Inc.

Agawam, Town Of

Allied Advertising Agency

American International College

Amherst, Town Of

Andover, Town Of

Anthony's Pier Four, Inc.

Arlington, Town Of

Arnold Worldwide, Inc.

Athol Royalston Regional School District

Atlantic Plywood Corporation

Attleboro, City Of

Back Bay Restaurant Group, Inc.

Bartlett Nuclear, Inc.

Bay State Milling Company

Baystate Health Systems

Bellingham, Town Of

**SCHEDULE A**  
(continued)

Berkshire Energy Resources

Berkshire Health Group

Berkshire Health Systems

Berkshire Industries, Incorporated

Beth Israel Deaconess Medical Center

Beverly, City Of

Big Y Foods, Inc.

Boston Concessions Group, Inc.

Boston Gas Company

Boston Medical Center

Boston Red Sox

Boston Scientific Corporation

Boston University

Boston, City Of

Bourne, Town Of

Bradford Industries, Incorporated

Braintree, Town Of (Active Employees)

Bristol County

Brockton Hospital

Brockton, City Of

Brookline, Town Of

BTR Sealing Systems, Inc.

**SCHEDULE A**  
(continued)

Burlington, Town Of

Cambridge, City Of

Canton, Town Of

Cape Cod Municipal Health Group

Channing L. Bete Company, Inc.

Charles Stark Draper Laboratory, Incorporated (Actives)

Charrette Corporation

Chelmsford, Town Of

Chelsea, City Of

Christmas Tree Shop, Inc.

Clean Harbors Environmental Services, Inc.

Comet Products, Incorporated

Crabtree & Evelyn

Crane & Company, Incorporated

Creoscitex America Inc.

Cumberland Farms

Cybex International

Cyrk Holdings, Inc.

Dartmouth, Town Of

Deaconess-Glover Hospital

Deaconess-Nashoba Hospital

Deaconess-Waltham Hospital

**SCHEDULE A**  
(continued)

Dean Foods Company

Demoulas Supermarkets, Inc.

Designs, Inc.

Dracut, Town Of

Draper Labs (Charles Stark Draper Laboratory, Incorporated) (Retirees)

Dudley Charlton Regional School District

Duxbury, Town Of

Easthampton, Town Of

Erving Industries, Inc.

Everett, City Of

Fairhaven, Town Of

Fall River Gas Company

Fall River, City Of

Fitchburg, City Of

FleetBoston Financial

FLEXcon Company, Incorporated

Foodmaster Supermarkets

Fort James Corporation

Foxboro, Town Of

Framingham, Town Of

Franklin County Regional Schools Health Group

Gardner, City Of

**SCHEDULE A**  
(continued)

General Hospital Corporation, The  
Gillette Company, The  
Goldman Group, The  
Greater Lawrence Technical High School  
Hampden Papers, Inc.  
Hampshire County Group Insurance Trust  
Hardigg Industries, Inc.  
Hardwick Knitted Fabrics, Inc.  
Harvard Management Company, Inc.  
Harvard Medical Faculty Physicians  
Harvard University (Faculty/Staff)  
Harwich, Town Of  
Hasbro, Inc.  
Haverhill, City Of  
HealthSouth Corporation  
Higham, Town Of  
Holt And Bugbee Company  
Hudson, Town Of  
IBEW Local 7 Health And Welfare Fund  
Ingersoll Rand Company  
Instron Corporation  
Interstate Brands Corporation

**SCHEDULE A**  
(continued)

Interstate Electrical Services Corporation

Ionics, Incorporated

J.H. Maxymillian & Affiliates, Incorporated

Jahn Foundry Corporation

James Russell Engineering Works, Inc.

Kayem, Foods, Inc.

L. Knife & Son, Incorporated

Landmark Health Solutions

Lawrence, City Of

Learning Company, Inc., The

Leominster, City Of

Lexington, Town Of

Littleton, Town Of

Lowell, City Of

Lynn, City Of

Madico, Inc.

Malden Mills Industries, Inc.

Malden, City Of

Marblehead, Town Of

Massachusetts Bay Transportation Authority

Massachusetts Eye And Ear Infirmary

Massachusetts Institute Of Technology (Faculty/Staff)

**SCHEDULE A**  
(continued)

Massachusetts Institute Of Technology (MITHP)

Massachusetts Society For The Prevention Of Cruelty To Animals (MSPCA)

Maynard, Town Of

Medway, Town Of

Methods Machine Tools, Inc.

Methuen, Town Of

Modern Dispersions

Montachusett Regional Vocational Technical School

Morrison, Mahoney & Miller

Morton Hospital

Mount Auburn Foundation, Incorporated

Nantucket, Town And County Of

Nashoba Regional School District

National Grid USA Service Company, Inc. On Behalf Of National Grid USA Companies

New Bedford, City Of

New England Baptist Hospital

New England Development

New England Neurological Associates

New England Newspapers, Inc.

Newton Wellesley Hospital

Norfolk County

North Adams Regional Hospital



**SCHEDULE A**  
(continued)

North Adams, City Of

North Andover, Town Of

Northeast Metropolitan Regional Vocational School

Northeastern University

Northern New England Benefit Trust

Nova Biomedical

NSTAR

Ogden Resource Recovery Support Services, Incorporated

Orange, Town Of

Osram Sylvania, Inc.

Peabody, City Of

Pentucket Regional School District

Pipefitters Union Local #537 Trust Fund

Plymouth, Town Of

Polaroid Corporation

PRI Automation

Quaker Fabric Corporation Of Fall River

R.H. Long Motor Sales Co.

R.H. White Construction Company, Inc.

Ralph C. Maher Regional School District

Raytheon Company (Mass Employees)

Renaissance Worldwide, Inc.

**SCHEDULE A**  
(continued)

Republican Company

Revere, City Of

Ro-Jacks Food Stores, Inc.

Russell Harrington Cutlery, Inc./Hyde Manufacturing

Salem, City Of

Saugus, Town Of

Savage Arms, Incorporated

Seaman Paper Company

Seekonk, Town Of

Sexton Can Company

Sharon, Town Of

Shawsheen Valley Technical Hight School

Sheet Metal Workers Union Local #63

Shipley Company

Sipex Corporation

Somerset, Town Of

Somerville, City Of

South Middlesex Regional Vocational School District

Southcoast Health Systems

Specialty Loose Leaf, Inc.

Stop & Shop Companies, The

Stoughton, Town Of

**SCHEDULE A**  
(continued)

Sudbury, Town Of

Sullivan Paper Company, Inc.

Swampscott, Town Of

Swank, Inc.

Swansea, Town Of

Taunton, City Of

Teamsters Local Union #653 Health, Welfare & Insurance Fund

Teamsters Union Local #122 Health And Welfare Fund

Teledyne Rodney Metals

Tewksbury, Town Of

Thomcast Communications, Inc.

TJX Companies, Inc., The

Triton Regional School District

Tufts University

U Mass Memorial Health Care

Uniplast Films, Incorporated/Pierson Industries, Incorporated

United Lens Company, Inc.

Valleyhead School

Vertex Pharmaceuticals, Inc.

Vialog

Wakefield, Town Of

Walpole, Town Of

**SCHEDULE A**  
(continued)

Waltham, City Of

Waters Technologies Corporation

Webster, Town Of

Wentworth Institute

West Springfield, Town Of (Active Employees)

West Suburban Health Group

Westford, Town Of

Weston, Town Of

Wilbraham & Monson Academy

Wilmington, Town Of

Wyman Gordon Company